IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
FIRST APPEAL NO.1683 OF 2006

Office Notes,Office memorandum of Coram, appearances,Court's orders or directions & Registrar's orders.	Court's or Judge's orders

Mr.H.V.Mehta for the appellant

CORAM: A.S.OKA, J.
DATED: AUGUST 4, 2006.

P.C.:

1. Heard Shri Mehta for the Appellant. The Appellant-Corporation issued a demand in the sum of Rs.7795/- to the Respondent on account of delay in payment of contribution. The said order issued by the Appellant-Corporation under section 85-B of the Employees State Insurance Act, 1948 has been set aside by the learned Judge of the Employees Insurance Court, Mumbai on an Application made under section 75 of the said Act of 1948.

2. Shri Mehta for the Appellant submitted that there was no question of any delay in making demand as the demand for damages can be made only after contribution is paid. He, therefore, submitted that only on the ground of delay in making demand, the application under section 75 of the said Act of 1948 could not have been

allowed. 3.It appears that initially the notice was issued by the Appellant on 28th February 1984 to the Respondent making a demand for contribution. The Respondent paid the contribution in two instalments. The first instalment was paid on 10th October 1988 in the sum of Rs.4009/- and the balance amount of Rs.3786/- was paid on 24th October 1996.

4. Thereafter, notice under section 85-B of the said Act of 1948 was issued on 4th March 1987 demanding damages of Rs.7795/- on account of delay.

5. Appeal against the order passed by the learned Judge of the Employees Insurance Court is maintainable in this court only on a substantial question of law. In the facts of the present case, more than 50% of the contribution was paid by the Respondent in the year 1988 and the demand for damages was made by notice dated 4th March 1987. The amount of demand is only Rs.7795/-. Considering the findings of fact recorded by the learned Judge, no substantial question of law arises. There is no merit in the Appeal and the same is rejected with no order as to costs.

Judge.